

COMMONWEALTH OF MASSACHUSETTS

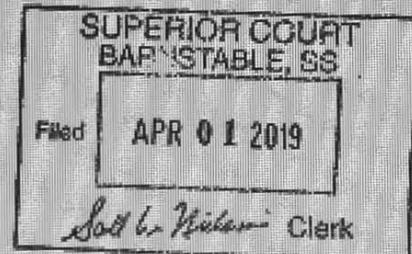
BARNSTABLE, SS.

SUPERIOR COURT DEPT.  
OF THE TRIAL COURT  
CIVIL ACTION  
NO. 1972 CV 102

KARA S. QUINN, as PERSONAL  
REPRESENTATIVE of the ESTATE OF  
KEVIN P. QUINN  
PLAINTIFF

VS.

MICKEY A. RIVERA,  
PERSONAL REPRESENTATIVE ESTATE OF  
MICKEY A. RIVERA &  
MARCELLA E. FUREY  
DEFENDANTS



DEFENDANTS' ANSWER & CLAIM OF JURY TRIAL

1. Defendants lack sufficient knowledge to either admit or deny the allegations contained in paragraph 1 of plaintiff's complaint.
2. Defendants lack sufficient knowledge to either admit or deny the allegations contained in paragraph 2 of plaintiff's complaint.
3. Defendants lack sufficient knowledge to either admit or deny the allegations contained in paragraph 3 of plaintiff's complaint.
4. Defendants deny the allegations contained in paragraph 4 of plaintiff's complaint.
5. Defendants deny the allegations contained in paragraph 5 of plaintiff's complaint.
6. Defendants admit the allegations contained in paragraph 6 of plaintiff's complaint.
7. Defendants admit the allegations contained in paragraph 7 of plaintiff's complaint.
8. Defendants deny the allegations contained in paragraph 8 of plaintiff's complaint.

9. Defendants deny the allegations contained in paragraph 9 of plaintiff's complaint.

10. Defendants deny the allegations contained in paragraph 10 of plaintiff's complaint.

11. Defendants deny the allegations contained in paragraph 11 of plaintiff's complaint.

12. Defendants deny the allegations contained in paragraph 12 of plaintiff's complaint as phrased.

13. Defendants deny the allegations contained in paragraph 13 of plaintiff's complaint and deny the plaintiffs are entitled to recover damages.

14. Defendants deny the allegations contained in paragraph 14 of plaintiff's complaint and deny the plaintiffs are entitled to recover damages.

Count I – Wrongful Death M.G.L. c. 229, §2

Kara S. Quinn, as Personal Representative v. Mickey A. Rivera

15. Defendants repeat their answers to paragraphs 1 through 14 of plaintiff's complaint.

16. Defendants deny the allegations contained in paragraph 16 of plaintiff's complaint.

Count II – Conscious Pain and Suffering, M.G.L. ch. 229, §6

Kara S. Quinn, as Personal Representative v. Mickey A. Rivera

17. Defendants repeat their answers to paragraphs 1 through 16 of plaintiff's complaint.

18. Defendants deny the allegations contained in paragraph 18 of plaintiff's complaint.

Count III – Wrongful Death, M.G.L. ch. 229, §2

Kara S. Quinn, as Personal Representative v. Personal Representative,  
Estate of Mickey A. Rivera

19. Defendants repeat their answers to paragraphs 1 through 18 of plaintiff's complaint.

20. Defendants deny the allegations contained in paragraph 20 of plaintiff's

complaint.

Count IV – Conscious Pain and Suffering, M.G.L. ch. 229, §6  
Kara S. Quinn, as Personal Representative v. Personal Representative,  
Estate of Mickey A. Rivera

21. Defendants repeat their answers to paragraphs 1 through 20 of plaintiff's complaint.

22. Defendants deny the allegations contained in paragraph 22 of plaintiff's complaint.

Count V – M.G.L. ch. 231, §85A  
Kara S. Quinn, as Personal Representative v. Marcella E. Furey

23. Defendants repeat their answers to paragraphs 1 through 22 of plaintiff's complaint.

24. Defendants deny the allegations contained in paragraph 24 of plaintiff's complaint.

FIRST DEFENSE

And further answering, the defendants say that the plaintiff's complaint fails to set forth facts constituting a cause of action, and therefore the plaintiff cannot recover.

SECOND DEFENSE

And further answering, the defendants say that the negligence of the decedent caused or contributed to the accident, injuries and death alleged, and therefore the plaintiff cannot recover.

THIRD DEFENSE

And further answering, the defendants say that the decedent was more than 50 percent negligent in causing or contributing to the incident, injuries and death alleged, and therefore the plaintiff either cannot recover or any verdict or finding in plaintiff's favor must be reduced by the percentage of negligence attributed to the said decedent.

FOURTH DEFENSE

And further answering, the defendants say that the decedent's alleged injuries and subsequent death were caused by persons other than the defendants, their agents, servants or employees, and the decedent's alleged injuries and subsequent death were

caused by persons for whose conduct the defendants are not responsible, and therefore the plaintiff cannot recover.

#### FIFTH DEFENSE

And further answering, the defendants say that the decedent's death was not caused by any conduct of the defendants which allows for an award of punitive damages.

#### SIXTH DEFENSE

And further answering, the defendants say that the plaintiff is not the proper person(s) entitled to recover damages under the Massachusetts Wrongful Death Statute and therefore the plaintiff's complaint should be dismissed.

#### SEVENTH DEFENSE

And further answering, the defendants say that the plaintiff's rights of recovery are limited pursuant to the provisions of M.G.L. c. 190B, Section 3-803(d)(2)

#### EIGHTH DEFENSE

And further answering, the defendants say that the plaintiff's Complaint is subject to dismissal due to insufficiency of process and insufficiency of service of process pursuant to M.R.C.P. 12 (b)(4) and 12(b)(5).

#### NINTH DEFENSE

And further answering, the defendants say that they are entitled to a credit for any Personal Injury Protection benefits that the plaintiff/decedent received under any applicable policy of insurance, and any recovery by the plaintiff must be diminished by the amount of Personal Injury Protection benefits that the plaintiff/decedent received under the provisions of Massachusetts General Laws Chapter 90, Section 34(m).

#### TENTH DEFENSE

And further answering, the defendants say that the defendant owner was not legally responsible for the accident as referenced in M.G.L. c. 231, Section 85A, and therefore the plaintiff cannot recover.

#### ELEVENTH DEFENSE

And further answering, the defendants state that the plaintiff lacks standing to maintain this action and may not recover.

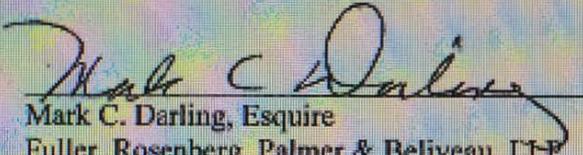
TWELFTH DEFENSE

And further answering, the defendants say that the named defendant, Mickey A. Rivera, is deceased and that there has been no estate filed and no personal representative appointed. Therefore, Counts III and IV of plaintiff's complaint fail to state a claim upon which relief may be granted and must be dismissed.

WHEREFORE, the defendants demand judgment against the plaintiff and further demand that said action be dismissed.

AND, FURTHER, the defendants claim a trial by jury on all the issues.

MICKEY A. RIVERA,  
PERSONAL REPRESENTATIVE-ESTATE  
OF MICKEY A. RIVERA &  
MARCELLA E. FUREY  
BY THEIR ATTORNEY:

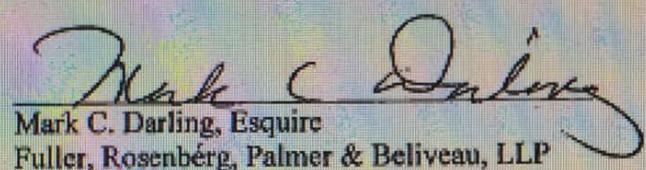
  
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Dated: March 27, 2019

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon the parties to this action by mailing a copy thereof, first class, postage prepaid, to the following counsel of record:

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